

CAROLYN D. RICHMOND, ESQ. (CR-0993)  
ELI Z. FREEDBERG, ESQ. (EZ-6854)  
FOX ROTHSCHILD LLP  
100 Park Avenue  
Suite 1500  
New York, New York 10017  
(212) 878-7900

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 2/5/08

*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CHI KONG LEUNG on behalf of himself and all  
others similarly situated,

Plaintiffs,

v.

HOME BOY RESTAURANT INC. d/b/a TRIBECA  
GRILL and DREW NIEPORENT,

Defendants.

ECF CASE

07-CV-8779 (RJS)

CASE MANAGEMENT PLAN  
AND SCHEDULING ORDER

**RICHARD J. SULLIVAN, District Judge:**

At the conference before the Court held on February 5, 2008, this Case Management Plan and Scheduling Order was adopted in accordance with Rules 16-26(f) of the Federal Rules of Civil Procedure.

1. All parties do not consent to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. § 636(c).
2. This case is to be tried to a jury.
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.

5. Initial disclosures pursuant to Rule 26(a)(1) will be completed not later than February 19, 2008 [absent exceptional circumstances, within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f)].
6. All *fact* discovery is to be completed no later than May 26, 2008 [a period not to exceed 120 days unless the Court finds that the case presents unique complexities or other exceptional circumstances].
7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties meet the fact discovery completion date in ¶6 above.
  - a. Initial requests for production of documents to be served by February 22, 2008.
  - b. Interrogatories to be served by February 22, 2008.
  - c. Depositions to be completed by May 9, 2008.
    - i. Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
    - ii. There is no priority in deposition by reason of a party's status as plaintiff or defendant.
    - iii. Unless the parties agree or the Court so orders, non-party depositions shall follow initial party depositions.
  - d. Requests to Admit to be served no later than May 9, 2008.
8. All *expert* disclosures, including reports, production of underlying documents and depositions are to be completed by: *July 1, 2008*
  - a. Expert(s) of Plaintiff(s) ~~July 1, 2008~~.
  - b. Expert(s) of Defendant(s) ~~September 1, 2008~~.

9. All discovery is to be completed no later than July 7, 2008 ~~October 1, 2008~~.
10. The court will schedule a post-discovery status conference (see ¶ 16) within three weeks of the close of all discovery.
11. Pre-motion letters regarding dispositive motions, if any, are to be submitted no later than two weeks prior to the post-discovery status conference date listed in ¶ 16. In accord with this Court's Individual Rule 2.A, response letters thereto are to be submitted within three business days from serve of the initial pre-motion letter.
12. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery. Accordingly, Counsel for parties have discussed holding a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request:
- a. X Referral to a Magistrate Judge for settlement discussions  
M J Eaton to contact the parties by mid May 2008
- b. \_\_\_\_\_ Referral to the Southern District's Mediation Program
13. The parties shall submit a Joint Pretrial Order prepared in accordance with the undersigned's Individual Practice Rule 3 and Rule 26(a)(3). If this action is to be tried before a jury, proposed *voir dire*, jury instructions, and a verdict form shall be filed with the Joint Pretrial Order. Counsel are required to meet and confer on jury instructions and verdict form in an effort to make an agreed upon submission.
14. Parties have conferred and their present best estimate of the length of trial is 1 week.
- 

**TO BE COMPLETED BY THE COURT**

15. [Other directions to the parties:]

16. The post-discovery status conference is scheduled for July 22, 2008  
at 430

**SO ORDERED:**

DATED: NEW YORK, NEW YORK  
February 5, 2008

  
\_\_\_\_\_  
**RICHARD J. SULLIVAN**  
**UNITED STATES DISTRICT JUDGE**